

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAYTON COTE,

Plaintiff,

v.

U.S. SILICA,  
NORFOLK SOUTHERN  
CORPORATION,  
SCHNELL INDUSTRIES and  
FB INDUSTRIES,

Defendants.

No. 4:18-CV-01440

(Judge Brann)

**ORDER**

**JUNE 12, 2019**

In accordance with the accompanying Memorandum Opinion, **IT IS  
HEREBY ORDERED** that:

1. Schnell's Motion to Dismiss at ECF No. 58 is **DENIED**.
2. Schnell's Motion to Dismiss at ECF No. 64 is **DENIED AS MOOT**.
3. Schnell's Motion to Dismiss at ECF No. 71 is **DENIED AS MOOT**.
4. Schnell's Motion to Dismiss at ECF No. 74 is **DENIED AS MOOT**.
5. Schnell's Motion to Dismiss at ECF No. 83 is **GRANTED IN PART** and **DENIED IN PART** as follows:
  - a. Norfolk Southern's indemnification crossclaim against Schnell, ECF No. 76, is **DISMISSED**.

- b. The motion is otherwise **DENIED**.
- 6. Schnell's Motion to Dismiss at ECF No. 86 is **GRANTED IN PART** and **DENIED IN PART** as follows:
  - a. U.S. Silica's indemnification crossclaim against Schnell, ECF No. 82, is **DISMISSED**.
  - b. The motion is otherwise **DENIED**.
- 7. No later than June 21, 2019, Schnell **SHALL ANSWER**:
  - a. Mr. Cote's Amended Complaint, ECF No. 52.
  - b. The remaining claims crossclaims against it brought by Norfolk Southern and U.S. Silica, ECF Nos. 76 and 82.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

United States District Judge